IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928

OP.No. 5973 of 2002(J)

PETITIONER:

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1. PANDIYAN, S/O. RAJAPPAN,
   AGED ABOUT 35 YEARS, HARIJAN COLONY,
   PULIYANMALA P.O., VANDANMEDU VILLAGE,
   UDUMPANCHOLA TALUK, KATTAPPANA, IDUKKI DISTRICT.

2. SURESH BABU K.R., S/O.RAGHAVAN,
   AGED 38 YEARS, KALLUKALAYIL HOUSE,\PULIYANMALA P.O
   VANDANMEDU VILLAGE, UDUMPANCHOLA TALUK,
   KATTAPPANA, IDUKKI DISTRICT.

3. BINOY, S/O. JOSE, AGED 30 YEARS,
   PALLIKKULANGARA, PULIYANMALA P.O., VANDENMEDU
   VILLAGE, UDUMPANCHOLA TALUK, KATTAPPANA,
   IDUKKI DISTRICT.

4. SUMA, W/O. THANKAPPAN, AGED 40 YEARS,
   KOLEDIYIL HOUSE, PULIYANMALA P.O.,
   VANDANMEDU VILLAGE, UDUMPANCHOLA TALUK,
   KATTAPPANA, IDUKKI DISTRICT.

BY ADV. SRI.T.V.GEORGE

RESPONDENTS:

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1. STATE OF KERALA,
   REPRESENTED BY THE SECRETARY TO MINOR IRRIGATION
   DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. ASSISTANT ENGINEER,
   MINOR IRRIGATION DEPARTMENT, KATTAPPANA,
   IDUKKI DISTRICT.

3. VANDANMEDU GRAMA PANCHAYAT,
   REPRESENTED BY ITS SECRETARY, VANDANMEDU GRAMA
   PANCHAYATH, VANDANMEDU, IDUKKI.

4. THE DISTRICT COLLECTOR,
   PAINAVU P.O., IDUKKI DISTRICT.

5. THE SUB INSPECTOR OF POLICE,
VANDANMEDU, IDUKKI DISTRICT.

6. M.K.SCARIA @ VRINDAVAN JOHNY,
AGED ABOUT 45 YEARS, VRINDAVAN ESTATE,
HEMA KADAVU KARA, VANDANMEDU P.O., VANDANMEDU
VILLAGE, UDUMPANCHOLA TALUK.

7. THANKACHAN, S/O. VARKEY,
AGED ABOUT 45 YEARS, VALUMMEL HOUSE, VELLAYAKUDI
P.O.KATTAPPANA VILLAGE, IDUKKI DISTRICT.

8. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VAIDUTHI BHAVAN,
THIRUVANANTHAPURAM.

R1,2,4&5 BY GOVERNMENT PLEADER SMT.R.BINDU
R6 BY ADV. SRI.T.P.VARGHESE
SRI.PHILIP T.VARGHESE
SRI.GEORGE JACOB (JOSE)

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 12/03/2007, THE COURT ON 12/03/2007 DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.10571/2002 IN O.P. NO.5973/2002

DISMISSED:

12.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE MASS REPRESENTATION DT.20.2.02 BEFORE THE DIST. COLLECTOR, IDUKKI.

P2: ROUGH SKETCH OF THE LIE AND LOCATION OF THE DAM SITE ANDT HE LIE OF VARIOUS COLONIES ETC.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.5973 of 2002

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Dated this the 12th day of March, 2007.

JUDGMENT

Prayer in the O.P. is for direction to respondents 1 to 5 to prevent respondents 6 and 7 from constructing Check Dam. I see no reason why petitioners should oppose construction of a Check Dam because dam will help preservation of water during monsoon so that during off season water can be utilised for the benefit of respondents 6 and 7 and for people like petitioners. Even if dam is constructed at the cost of respondents 6 and 7, it would be open to respondents 4 and 5 to allot the water for use by owners of land downbelow. The O.P. is accordingly disposed of directing the 4th respondent to ensure that dam if already constructed is used for the benefit of maximum number of people in the area and the water is not exclusively used by those who construct the dam. Even though Government Pleader submitted that Irrigation Department wants to construct the Dam under NABARD scheme, I see no reason why Government should insist on wasting money when private persons are willing to invest and construct the dame at their cost. In fact, Government should encourage it and give guidance to the private parties to construct dam.

C.N.RAMACHANDRAN NAIR
Judge

pms